IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 7456 OF 2006

Mrs. Chhaya Mukund Jobanputra & ors.... Petitioner

versus

Mukund Laxmidas Jobanputra & ors..... Respondent.

Ms. Aarti P. Bhide for the petitioner
Mr. Sajan Oommen for the Respsondent.

CORAM; A.P. DESHPANDE, J.
DATED; 2ND JULY, 2007

P.C.;

1. The petitioner no.1 and the respondent no.1 are husband and wife, whereas the respondent no.2 is the real brother of respondent no.1. The petitioner wife has instituted proceedings in the Family Court at Bandra by instituting petition no.C-96/2000. The petitioner has claimed permanent maintenance and has also prayed right of residence in flat no. 404/A situated at Shyam Nirmal Co-operative Housing Society. The respondent no.1 has been proceeded ex-parte as he has failed to put in appearance. It is a common ground that he was absconding and his whereabouts are not known. The respondent no.2 moved an application for impleading him as party respondent in the said proceeding and the family court has allowed the application and directed the petitioner to implead the

respondent no.2 as party respondent. The family court has observed that the property in question initially stood in the name of the mother of the respondent nos.1 and 2 and after she died interstate respondent nos. 1 and 2 have a share in the property. Having noticed the fact that the respondent no.1 has been proceeded against ex-parte and as the petitioner is claiming a right of residence in the flat in question, wherein respondent no.2 has a share, the Family Court has permitted impleadment of the respondent no.2 as the court found that if the respondent no.2 is not permitted to be joined as a party, it will jeopardise his right and the rights of other heirs.

2. Perused the order. No interference is called for. Hence petition is summarily dismissed.

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